



Dennis J. Duffin
Director

AO-87-04
The Commonwealth of Massachusetts

*Office of
Campaign & Political Finance*

*One Ashburton Place, Boston 02108
727-8352*

AO-87-04
March 13, 1987

Mr. James J. Craven, Jr.
9 Saint John Street
Jamaica Plain, MA 02130

Dear Mr. Craven:

This opinion shall serve to replace an advisory opinion issued to you on June 14, 1985, cited as AO-1985-08. After a careful review of this advisory opinion, we believe that an important issue was not addressed in that opinion. We therefore have determined that the appropriate remedy is to issue this opinion to you in place of that issued to you on June 14, 1985.

Your specific inquiry was whether the campaign finance law would permit a political committee organized on your behalf to hold a political fundraiser, in light of your employment with the Massachusetts Department of Revenue.

As an employee of the Department of Revenue, you are a person "employed for compensation" by the Commonwealth and are therefore subject to certain restrictions on your political activity as provided in Section 13 of Chapter 55 of the Massachusetts General Laws. This section prohibits you from directly or indirectly soliciting or receiving any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for your political committee, or for any political purpose whatsoever. This prohibition is also applicable to any other public employee, other than an elected official, who may wish to engage in political activity in your behalf, or for any other political purpose.

This section, however, does provide that a public employee candidate may have funds raised on his behalf through a political committee. However, while that political committee, as well as individuals acting on behalf of that political committee, may solicit and receive contributions for the public employee candidate, it may not do so from any individual, any group of individuals or any organization or association which has any interest in any particular matter in which the public employee candidate has participated or is participating, or which is part of his official responsibility.

Mr. James J. Craven, Jr.

March 13, 1987

Page 2

You should also be advised of other provisions of the campaign finance law which may be relevant. Section 16 of Chapter 55 provides that, "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so." Section 17 of Chapter 55 provides that "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

While G.L.c. 55 permits your political committee to raise funds on your behalf, subject to the restrictions set forth above, and while that law does not prohibit political committees of public employee candidates, from holding fundraisers, there is another state statute which may be applicable to you. M.G.L.c. 268, s. 9A states, "No person shall sell, offer for sale, or accept payment for, tickets or admissions to, nor solicit or accept contributions for, a testimonial dinner or function, or any affair, by whatever name it may be called, having a purpose similar to that of a testimonial dinner or function, for any person, other than a person holding elective public office, whose office or employment is in any law enforcement, regulatory or investigatory body or agency of the commonwealth or any political sub-division thereof."

While this office does not have specific jurisdiction over this statute, I believe that it raises serious questions as to whether a fundraiser may be held for an employee of the Department of Revenue.

Very truly yours,



Dennis J. Duffin
Director

DJD/bva/jee